



09/321,360

PATENT

#21 (W)  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	GUHEEN ET AL.	Examiner:	A. ROBINSON-BOYCE
Serial No.:	09/321,360	Group Art Unit:	3623
Filed:	MAY 27, 1999	Docket No.:	8567.106US01
Title:	PHASE DELIVERY OF COMPONENTS OF A SYSTEM REQUIRED FOR IMPLEMENTATION OF TECHNOLOGY (AS AMENDED)		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450 on September 8, 2003.

By:

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REQUEST FOR CLARIFICATION IN SUPPLEMENTAL OFFICE ACTION

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Dear Sir:

In response to the Final Office Action mailed May 21, 2003, Applicants respectfully request an advisory Supplemental Office Action to clarify the bases for rejections. Applicants believe that a supplemental Office Action is needed in this instance for the reasons stated below. Alternatively, Applicants request a notice of Allowance.

Claims 1-18 are pending in this application. In the Office Action, the Examiner rejected claims 1-18 under 35 U.S.C § 103(a). Applicants respectfully traverse these rejections. Applicants believe that the claims are in condition for allowance.

To complete the record for appeal, Applicants respectfully request a Supplemental Office Action to clarify the bases for rejection of the claims. While Applicants acknowledge that the Examiner is not required to respond to this after-final communication, Applicants submit that a substantive response is appropriate in this instance because the Final Rejection contains facially apparent deficiencies. Applicants

request that the Examiner reconsider and withdraw the rejections or at least clarify specifically where the claim limitations are found in the cited reference.

The Manual of Patent Examining Procedure (MPEP) requires that three basic criteria must be met to establish a *prima facie* case of obviousness.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) *must teach or suggest all the claim limitations*.

MPEP § 2142 (emphasis added.)

Here, the Final Office Action does not set forth a *prima facie* case of obviousness. The reference cited in support of the rejection of claim 1, for example, does not teach or suggest all the limitations of the claims.

As a preliminary matter, Applicants do not claim exclusive rights in indicia coding *per se*. To the contrary, Applicants claims are directed to a method, system, and computer program for displaying phases in which components of a system for providing a web architecture framework that involves coding pictorial representation of system components.

Claim 1 recites the steps of:

- (a) displaying a pictorial representation of an existing system including a plurality of components;
- (b) presenting a first set of components of a system for providing a web architecture framework, the first set of components being indicia coded to indicate that they are to be delivered in a first phase; and
- (c) presenting a second set of components of a system for providing a web architecture framework, the second set of components being indicia coded in a manner unique with respect to the indicia coding of the first set of components to indicate that the second set of components is to be delivered in a second phase.

The Final Office Action rejects claim 1 under § 103 based on a single reference: United States Patent No. 4,937,743 to Rassman et al.

The Examiner asserted that Rassman, et al. discloses "presenting a first set of components of a system for providing a web architecture framework, the first set of components being indicia coded to indicate that they are to be delivered in a first phase, (Col. 14, lines 12-16 and Fig. 7, where the components [represented by resources] for the first phase are indicia coded by the vertical rectangles labeled "Y" One for phase one)."

The Examiner's rejection quotes the language of part (b) of claim 1. As described below, Applicants believe the rejection is facially defective: The reference fails to teach or suggest parts (b) and (c) of claim 1, as required for a proper rejection.

Rassman Does Not Teach or Suggest a *Web Architecture Framework*

Rassman is directed to a system for scheduling the use of hospital equipment. Rassman does not even mention a system for providing a web architecture framework.

At the bottom of page 3 through the top of page 4 of the office action, the Examiner argues that the claim limitation "a system for providing a web architecture framework" is obvious in Rassman because Rassman discloses "management of a plurality of interrelated and interdependent resources using a computer system," and a web architecture framework consists of computer components. The Examiner then leaps to the conclusion that it would be obvious to manage the hardware and software components of a web architecture framework using the system of Rassman.

Just because the Rassman patent uses a computer system to manage hospital resources does not make it obvious to manage computer resources in a similar way. The resources of Rassman in the hospital context are operating rooms, surgeons, and medical equipment. Outside the medical context the resources might be aircraft, boarding gates, and pilots. Rassman, Column 5, lines 51- 56. None of these or the other possible resources identified for management by Rassman are the components of a web architecture framework. Instead of identifying why it is obvious for Rassman to be used to manage a web architecture framework, the Examiner has stated that Rassman uses a

computer system to do the managing, and a web architecture framework is a type of computer system.

At least because this limitation is not taught or suggested by Rassman, the rejection of claim 1 over Rassman is facially deficient for failure to teach or suggest all the limitations of the claims. Applicants thus request reconsideration and withdrawal of this rejection. If the Examiner believes that the rejection over Rassman is supportable, Applicants request a supplemental action to clarify the rejection for appeal.

#### Rassman Does Not Teach or Suggest Indicia Coding of Components

Claim 1 requires that *the components* be indicia coded. Rassman merely shows a bar chart-style timeline that plots the schedule for using components. Rassman does not teach or suggest indicia-coding components themselves to indicate phased delivery.

As Applicants understand the Examiner's rejection, in Fig. 7 of Rassman, Resource123, Resource223, and Resource224 are taken to be components. The vertical timeline shows boxes under the Resources which indicate the length of time that a particular resource will be used. Labels in the boxes describe how a resource will be used on a particular day, e.g. that Resource123 will be used on 6/1/87 in Phase One of Project Y. Indicia show where scheduling conflicts arise.

The bar-graph boxes do not teach or suggest indicia coding of the components, as required in the claims, where the components are described as "being indicia coded" to indicate a phase of delivery.

Rassman merely provides a calendar of resource scheduling but does not code components to visually indicate phases of delivery. Rassman does not teach or suggest coding the pictorial representation of components indicia such as color, shading, or texture. In Fig. 7, for example, Resource123, Resource223, and Resource224 are merely represented by text labels in boxes. There is no coding in the boxes representing the resources to indicate phase delivery of components. Rassman does not teach or suggest "the first set of components being indicia coded to indicate that they are to be delivered in

a first phase" as recited in claim 1. The Examiner is required to point out how the boxes representing the resources in Rassman are indicia coded.

**Summary**

In summary, each of claims 1-18 are in condition for allowance. The final rejection is facially deficient for failure to set forth a prima facie showing of obviousness. Applicants respectfully request a supplemental action or a notice of allowance.

Respectfully submitted,  
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Date: \_\_\_\_\_

September 8, 2003

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